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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,456	12/22/2006	Paul Joseph Bingham	18801-00789	2426

7590 07/07/2011  
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McDonald Hopkins Co  
600 Superior Avenue East  
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EXAMINER
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LARSON, JUSTIN MATTHEW

ART UNIT	PAPER NUMBER
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3782

MAIL DATE	DELIVERY MODE
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07/07/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/576,456

**Applicant(s)**

BINGHAM, PAUL JOSEPH

**Examiner**

JUSTIN LARSON

**Art Unit**

3782

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 March 2011.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 12, 14-16, 18, 19, 21, 22, 24 and 25 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 1-10, 12, 14-16 and 18 is/are allowed.  
6) ☒ Claim(s) 19, 21, 22, 24 and 25 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 02 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Australia on 10/20/03. A certified copy of the foreign application was received on 3/24/11.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Grim (US 5,366,128 A).

Regarding claim 19, Grim discloses a support assembly to secure a roof bar to a vehicle, said assembly comprising: a base (11) capable of securing the roof bar (12) to the vehicle roof; a track (a groove 43/44) located on the base; and a cover (24) pivotably mounted on the base at a pivot point (23), wherein the pivot point is capable of sliding along the track (the pivot point clearly translates or slides between first and second positions as the cover is lifted, where such translation or sliding is "along", i.e. close to and in the direction of, the track) from a first position to a second position (23 moves as 41 slides along 26).

Regarding claim 21, there is a lock (47) operatively associated with the base and cover to secure the cover to the base and operable to release the cover for sliding along the track.

4. Claims 22 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Poulet (FR 2832371 A).

Regarding claim 22, Poulet discloses a support assembly to secure a roof bar (111) to a vehicle roof, having a longitudinal mounting portion (111/113) via which articles are secured to the bar, said assembly comprising: a base (115) capable of securing the bar to the vehicle roof; a cover (125/127) mounted on the base at a pivot (133), wherein the cover is moveable relative to the base from a first position (Figure 14) to a second position (Figure 13) while the cover remains mounted to the base; and wherein in the first position articles are prevented from being secured to the bar (see included translation - "In the clamping position shown in Fig 14, the handle is almost flush with the spar, this position being determined by the fact that the lever or other movable adjustment means bears against an abutment of the spar of support. In the clamping position, ***the handle 127 covers the end of the beam 112 and in particular the mouth of the longitudinal channel 113 of the profile 113.***") and wherein in the second position articles are capable of being secured to the bar.

Regarding claim 24, the cover is slidable (broadly taken to mean capable of moving or passing smoothly, where pivoting movement can be considered a smooth moving or passing motion) relative to the base from the first position to the second position.

5. Claims 19, 21, 22, 24, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Szigeti (US 6,158,638 A). *This new grounds of rejection was necessitated by Applicant's new claim 25.*

Regarding claim 19, Szigeti discloses a support assembly to (i.e. capable of being used as such, even if it is not the intent of Szigeti) secure a roof bar to a vehicle, said assembly comprising: a base (10) capable of securing the roof bar (a roof bar could be extended and attached between the two elements 10 via the channels 12 if a user so desired, while Examiner notes this is certainly not the intent of Szigeti) to the vehicle roof; a track (12) located on the base; and a cover (30) pivotably mounted on the base at a pivot point (50), wherein the pivot point is capable of sliding along the track from a first position to a second position (see Figure 3).

Regarding claim 21, there is a lock (70) operatively associated with the base and cover to secure the cover to the base and operable to release the cover for sliding along the track.

Regarding claim 22, Szigeti discloses a support assembly to (i.e. capable of being used as such, even if it is not the intent of Szigeti) secure a roof bar (a roof bar could be extended and attached between the two elements 10 via the channels 12 if a user so desired, while Examiner notes this is certainly not the intent of Szigeti) to a vehicle roof, having a longitudinal mounting portion (no roof bar is actually being claimed) via which articles are secured to the bar, said assembly comprising: a base (10) capable of securing the bar to the vehicle roof; a cover (30) mounted on the base at a pivot (50), wherein the cover is moveable (see Figure 3) relative to the base from a

first position to a second position while the cover remains mounted to the base; and wherein in the first position articles are prevented from being secured to the bar and wherein in the second position articles are capable of being secured to the bar.

Regarding the last "wherein" clause, Examiner is of the position that because the Szigeti device includes all of the presently claimed structure, it must be capable of performing the functionally claimed intended use as it is assumed that Applicant has claimed a complete and functional invention and the claimed structure alone is thus capable of performing the intended function.

Regarding claim 24, the cover is slidable (see Figure 3) relative to the base from the first position to the second position.

Regarding claim 25, there is a track (12) on a first (left) and second (right) side of the base, the pivot capable of sliding along the track to move from the first position to the second position.

***Allowable Subject Matter***

6. Claims 1-10, 12, 14-16, and 18 are allowed.

***Response to Arguments***

7. Applicant's arguments filed 3/24/11 with respect to Grim have been fully considered but they are not persuasive. Applicant has asserted that element (44) of Grim is not a "track" as claimed and that the pivot (23) does not "slide along" the element (44). Examiner maintains that element (44) is a "track" to the extent broadly claimed in that it is a defined groove. Examiner considers a groove structurally equivalent to a "track" as broadly claimed. As set forth in paragraph 3 above, the pivot

point clearly translates or slides between first and second positions as the cover is lifted, where such translation or sliding is "along", i.e. close to and in the direction of the track, from a first position to a second position (23 moves as 41 slides along 26).

8. Applicant's arguments filed 3/24/11 with respect to Poulet have been fully considered but are moot in view of the new interpretation of Poulet that focuses on the embodiment of Figures 13-14.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUSTIN LARSON whose telephone number is (571)272-8649. The examiner can normally be reached on Monday-Friday, 9a-5p (EST). If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Justin M Larson/  
Primary Examiner, Art Unit 3782  
7/4/11